IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 8500 of 1992

Hon'ble MR.JUSTICE J.M.PANCHAL

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

RAMESHBHAI REVJIBHAI PATEL

Versus

INDUSTRIAL MILLS ESTATE

Appearance:

MR GM JOSHI for Petitioner

MR HARIN P RAVAL for Respondent

CORAM : MR.JUSTICE J.M.PANCHAL

Date of decision: 24/01/2003

ORAL JUDGEMENT

1. By filing the instant petition under Article 226/227 of the Constitution of India, the petitioner has prayed to issue a writ of certiorari or any other appropriate writ, direction or order to quash the award and order dated July 30, 1992 rendered by the Labour Court, Ahmedabad, in Reference (LCA) No.138/79 by which prayer made by the petitioner to direct the respondent to

reinstate him in service with backwages is rejected.

2. Initially the petitioner was employed as a clerk with the respondent. Subsequently he was promoted to the post of manager with effect from March 28, 1978. According to him, his services were orally terminated with effect from September 30, 1978. Therefore, he had raised a dispute regarding the validity of the action taken by the respondent in terminating his services. On failure of conciliation proceedings the dispute was referred to the Labour Court, Ahmedabad, for adjudication. On appreciation of evidence adduced by the parties, the Labour Court concluded that the respondent was not a workman within the meaning of section 2(s) of the Industrial Disputes Act, 1947 and that he had abandoned the service on his own. In view of the said conclusions, the Labour Court has dismissed the reference by award and order dated July 30, 1992 giving rise to the present petition.

3. I have heard the learned counsel for the parties and taken into consideration the documents forming part of the petition. On appreciation of evidence of the petitioner, the Labour Court has come to the conclusion that the petitioner was performing managerial functions and was not a workman. This is a pure finding of fact which is not liable to be interfered with in instant petition which is essentially filed under Article 227 of the Constitution of India. The finding that the petitioner had abandoned his job of manager because he was plying a rickshaw is also a finding of fact and therefore not liable to be interfered with in instant petition. Therefore, I do not find any substance in the petition and the same is liable to be dismissed.

4. For the foregoing reasons, the petition fails and is dismissed. Rule is discharged. There shall be no order as to costs.

[J.M. PANCHAL J.]

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